

REMARKS/ARGUMENTS

Claims 1-2 and 4-23 are active.

Support for the amendment to Claim 1 is found in claim 3 and pages 5-6 of the application as filed.

Claim 22 finds support in Claim 3 and page 5.

Claim 23 finds support in Claim 18.

The claims have also amended to removed multiple dependencies and for clarity thereby rendering the objections on page 2 and the rejection under 35 USC 112, second paragraph no longer applicable. Further, claim 19 is cancelled and as such the rejection applied under 35 USC 101 is no longer applicable.

No new matter is added.

In the Official Action, the Examiner has rejected the claims as being obvious in view of Boire with Stachowiak. In the Examples, Boire describes (1) glass substrate; (2) silicon nitride; (3) ZnOx; (4) Ag; (5) Ti; (6) silicon nitride. The layers surrounding the Ag layer include Zn and Ti. The Examiner alleges that one would have replaced the Zn with NiCr from Stachoriak with a reasonable expectation of success.

Applicants respectfully disagree.

One would not have replaced the Zn from Boire with NiCr from Stachoviak because Boire explains that a ZnO layer is not a blocker layer but a wetting layer. (see col. 7, lines 53-64). Such a wetting layer has the property to allow an epitaxial growth of the silver layer above the ZnO layer and an NiCr layer does not have such a property. Therefore, doing what is alleged in the rejection goes contrary to what the art teaches. See MPEP § 2141.02 (prior art must be considered in its entirety, including disclosures that teach away from the claims) and MPEP § 2143.01 (proposed modification cannot render the prior art unsatisfactory for its intended purpose or change the principle of operation of a reference).

Therefore, while information about the upper blocker layer (layer d) in Boire may be found, nothing about the lower blocker layer (layer b) is taught or suggested because Boire only deals with stack of layer using a wetting layer.

At least on this basis, Applicants request that the rejection be withdrawn because the claims would not have been obvious.

Further on page 4, lines 14-19, the specification describes that using metals, X and Y, as the blocking layers substantial improved the glazings, e.g., optical variation defined by a change in light transmittance (see page 4, lines 26-31). The specification also provides several examples that this is indeed accurate. Examples 1 and 2 (using Ni/Cr and Ti) relative to Comparative Examples 1 and 2 (using only Ti or Ni/Cr in both layers) performed substantially better (see page 11, line 23 to page 12, line 12; page 12, lines 18-20; and page 12, lines 22-29). Examples 3 and 4 use different metals and/or inverted layers that performed better relative to Comparative Example 3 where both layers including Nb.

Applicants submit that it was really unexpected to obtain - when comparing before / after heat treatment - such a small change in light transmission ΔTL (of at most 3%) and such a small change in the colorimetric response in external reflection (ΔE^* between the case before heat treatment and the case after heat treatment of at most 3), with neither haze nor pitting (see also the specification at page 4, lines 27-31).

Withdrawal of the rejection is requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Daniel J. Pereira, Ph.D.
Attorney of Record
Registration No. 45,518

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)